

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

IN THE MATTER OF:

JANTRAN, INC. AS OWNER  
OF THE M/V ROSEDALE,  
IN A CAUSE OF ACTION  
FOR EXONERATION FROM,  
OR LIMITATION OF LIABILITY

CIVIL ACTION NO. 2:98CV36-B-B

**ORDER**

This cause comes before the court on the following motions: Seariver Maritime, Inc.'s [SeaRiver] "motion for new trial or, alternatively, to alter or amend the judgment" issued on November 26, 2001 and Jantran, Inc.'s [Jantran] "motion for new trial or, alternatively, to amend or clarify" the same judgment. Upon due consideration, the court denies SeaRiver's motion in its entirety and grants Jantran's motion in part to the extent that it seeks clarification of the court's November 26 ruling.

SeaRiver and Jantran maintain that the order, as it presently stands, allows SeaRiver to proceed with its claim of indemnification or contribution against Jantran in state court and exposes Jantran to additional liability, thus compromising Jantran's rights under the Limitation of Liability Act. The concern over Jantran's potential exposure to liability in the state proceeding appears to be based in part on a misinterpretation of the court's memorandum opinion. The court granted summary judgment in favor of Jantran exonerating Jantran from any liability arising from the factual circumstances of this cause. Apparently, SeaRiver and Jantran both interpret the court's opinion as holding that the court lacked jurisdiction over all matters related to SeaRiver, including SeaRiver's cross-claims against Jantran of indemnification or contribution and attorney's fees. However, the court ruled on SeaRiver's cross-claims against Jantran, explicitly dismissing them with prejudice. The court declined to rule on

SeaRiver's motion for summary judgment as to the issue of SeaRiver's liability, i.e., Brenda Bowie's claims against SeaRiver. It is only with respect to SeaRiver's liability to Brenda Bowie that the court found an absence of jurisdiction, in view of the fact that SeaRiver had not filed its own limitation petition and that Brenda Bowie had not asserted any claims against SeaRiver in the limitation proceeding.

Despite the court's dismissal of SeaRiver's cross-claims against Jantran, SeaRiver contends that it is free to proceed with the same claims originally filed in state court against Jantran:

SeaRiver's claims for indemnity and contribution are patently separate and, in fact, will require different facts at issue and evidence than Bowie's allegations as to Jantran. Jantran's liability, duties and/or obligations to SeaRiver had not yet been determined and thus SeaRiver is not collaterally estopped from pursuing this issue.

SeaRiver also contends that the court's dismissal of SeaRiver's cross-claims does not operate as *res judicata* to preclude SeaRiver from pursuing the cross-claims against Jantran in state court because SeaRiver has no privity with Brenda Bowie and has not been given a full and fair opportunity to litigate its claims against Jantran. The court rejects SeaRiver's arguments. SeaRiver, in opposing Jantran's summary judgment motion, had the opportunity to, but did not, adduce evidence of Jantran's liability. Based on the available evidence, the court found, as aforementioned, that Jantran was not liable and, in turn, dismissed with prejudice SeaRiver's cross-claims against Jantran as moot. SeaRiver does not identify in what respect its claim of indemnification or contribution against Jantran is "patently separate" and involves different facts and evidence than Brenda Bowie's cause of action against Jantran. Jantran's only "duties" and "obligations" to SeaRiver were those of a potential joint tortfeasor, and the record does not show otherwise. Accordingly, the court's dismissal of SeaRiver's cross-claims constitutes an adjudication on the merits that clearly precludes SeaRiver from pursuing the same claims against Jantran in another forum, and no other cognizable claims against Jantran arising from the factual circumstances of this cause remain. As such, Jantran's rights under the Limitation Act are fully protected.

The court is aware of the cases in the Fifth Circuit and other circuits reversing a district court's

dissolution of the stay of claims in other proceedings against the petitioning shipowner on the ground of a defective stipulation that fails to completely protect the shipowner's rights under the Limitation Act. *See, e.g., Odeco Oil and Gas Co. v. Bonnette*, 74 F.3d 671 (5<sup>th</sup> Cir. 1996); *In re Tidewater, Inc.*, 249 F.3d 342 (5<sup>th</sup> Cir. 2001); *In re Complaint of Holly Marine Towing, Inc.*, 270 F.3d 1086 (7<sup>th</sup> Cir. 2001). In each of these cases, the stipulation not to seek any judgment in state court against the owner in excess of its stake in the vessel failed to encompass a co-defendant with a state court claim of indemnification or contribution against the owner. In such a situation, the stipulation must include the signature of the co-defendant, who, if found liable in the state proceeding, would be otherwise free to pursue a remedy against the petitioning owner in excess of the value of the vessel in violation of the Limitation Act. In contrast to these cases, Jantran's rights under the Limitation Act are fully protected because, as aforementioned, the court's dismissal of SeaRiver's cross-claims precludes SeaRiver from proceeding with the same claims against Jantran in state court. Therefore, the court finds that the above-cited cases are inapposite to the status of the instant cause.

SeaRiver also observes that limitation proceedings are actions in equity and argues that equity requires this court's determination of SeaRiver's liability, if any, to Brenda Bowie. Citing *British Transport Commission v. U.S., as Owner of the U.S.N.S. Haiti Victory*, 354 U.S. 129, 1 L.Ed.2d 1234 (1957), SeaRiver maintains that jurisdiction in limitation proceedings, as actions in equity, extends to all claims brought therein, irrespective of whether the petitioner is exonerated from fault, and that the factors of judicial economy, convenience and fairness mandate this court's continuing jurisdiction over SeaRiver's liability. The procedural posture of the instant cause is distinguishable from that of *British Transport Commission*. In that controversy, the injured passengers, crew members and representatives asserted, in addition to claims against the petitioning shipowner, cross-claims against the British Transport Commission as a potential joint tortfeasor, and the question before the United States Supreme Court was whether jurisdiction in the limitation proceeding extended to their cross-claims against the British Transport Commission. The Court answered in the affirmative, holding, in essence, that it would be inequitable not to allow the parties to proceed with their claims against the British

Transport Commission in the same limitation forum. In contrast, Brenda Bowie never asserted a claim against SeaRiver in the instant limitation proceeding, presumably because of a desire to litigate her claims in state court.<sup>1</sup> In fact, in its motion for summary judgment, SeaRiver highlighted Bowie's failure to assert any claims against it in the limitation proceeding and offered this fact as a ground for summary judgment. Now having lost its cross-claims against Jantran, SeaRiver claims that equity requires this court to adjudicate Bowie's claims against it.<sup>2</sup> While judicial economy may weigh in favor of this court's determination of SeaRiver's liability, that factor alone does not override all other considerations of equity. Equity would not be best served by forcing Bowie to litigate her claims against SeaRiver in this forum against her wishes. The court, therefore, finds that equity mandates resolution of her claims against SeaRiver in state court.

The Limitation Act is qualified by the saving to suitors clause, which grants a claimant the right to seek common law remedies against a shipowner in state court. In resolving the "recurring and inherent conflict" between the shipowner's right to proceed in a federal forum under the Limitation Act and the claimant's interest in pursuing common law remedies in state court under the saving to suitors clause, the cases evince a willingness to allow a claimant to proceed in state court as long as the state proceeding could have no possible effect on the petitioner's rights under the Act. As previously stated, the court's order exonerating Jantran and dismissing SeaRiver's cross-claims with prejudice fully protects Jantran

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<sup>1</sup> Brenda Bowie originally filed suit in this matter in state court. After the instant limitation proceeding was initiated, Bowie moved, successfully, to lift the stay of the state action in order to proceed with her claims against Jantran in state court. When SeaRiver filed its cross-claims against Jantran in the limitation proceeding, thereby causing the stay to be re-instituted, Brenda Bowie moved to strike SeaRiver's cross-claims and to dissolve the stay in an attempt to return to state court. It should also be noted that after the court's ruling on November 26, 2001 allowing the state proceeding to continue, SeaRiver removed this matter to this court, alleging jurisdiction based on diversity, and that Bowie has filed a motion to remand, again seeking to return to state court.

<sup>2</sup> SeaRiver observes that Bowie asserted a claim against it in the pretrial order. The pretrial order was neither issued nor entered in this cause and does not supersede the original pleadings. Therefore, any claims of Bowie against SeaRiver have not at any time been properly before this court.

from additional liability arising from the factual circumstances of this cause. Therefore, the court is of the opinion that the decision to allow Bowie to proceed with her cause against SeaRiver in state court is consistent with the aforementioned principles of the Limitation Act and the saving to suitors clause. Accordingly, SeaRiver and Jantran's motions for a trial in this court or, alternatively, to amend the judgment issued on November 26, 2001 are **DENIED**.

THIS, the \_\_\_\_\_ day of March, 2002.

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NEAL B. BIGGERS, JR.  
SENIOR U.S. DISTRICT JUDGE